ORIGINAL

UNITED STATES COURT OF INTERNATIONAL TRADE

GLOBE METALLURGICAL INC., **Plaintiff,** **v.** **UNITED STATES,** **Defendant.**	**Court No. 07-00022**

COMPLAINT

Plaintiff Globe Metallurgical Inc. ("Plaintiff"), through its attorneys, alleges and states as follows:

JURISDICTION & PARTIES

1. This action is brought pursuant to sections 516A(a)(2)(A)(i)(I) and B(iii) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. § 1516a(a)(2)(A)(i)(I) & B(iii)), and pursuant to 28 U.S.C. § 1581(c), which give this Court jurisdiction to review certain determinations issued by the International Trade Administration of the United States Department of Commerce (the "Department") under section 751 of the Act (19 U.S.C. § 1675), including revocations of antidumping duty orders. This action challenges the Department's revocation of the antidumping duty order on silicon metal from Brazil. *See Silicon Metal from Brazil: Revocation of Antidumping Duty Order*, 71 Fed. Reg. 76,635 (December 21, 2006) ("*Revocation Determination*"). Jurisdiction under the foregoing statutory provisions is proper because the *Revocation Determination* was issued pursuant to section 751(d) of the Act.

2. In the alternative, this action is brought pursuant to 28 U.S.C. § 1581(i)(2) and (4), which give this Court exclusive jurisdiction of any civil action commenced against the United

States and its agencies that (a) arises out of any law of the United States providing for tariffs and duties for reasons other than the raising of revenue, and the administration and enforcement of such matters, and (b) does not involve a determination reviewable by the Court under section 516A(a) of the Act (19 U.S.C. § 1516a(a)) or by a binational panel under 516A(g) of the Act (19 U.S.C. § 1516a(g)). If the Department's revocation of the antidumping duty order does not fall within the statutory provisions for review of a determination issued under section 751 of the Act, then this action arises out of the antidumping duty provisions of the Act (which provide for duties for reasons other than the raising of revenue) and the administration and enforcement of those provisions, and does not involve a determination reviewable by the Court under section 516A(a) of the Act (19 U.S.C. § 1516a(a)) or by a panel under 516A(g) of the Act (19 U.S.C. § 1516a(g)).

3. This Court has the authority to grant the relief requested by Plaintiff pursuant to 28 U.S.C. § 2643(c)(1).

4. Plaintiff is a United States manufacturer of silicon metal. It is an interested party that was a party to the proceeding in which the Department issued the *Revocation Determination*. Plaintiff is injured by the errors complained of herein.

5. Defendant is the United States of America.

TIMELINESS

6. This action is being commenced by the concurrent filing of a summons and complaint within 30 days after the date of publication of the *Revocation Determination*. Thus, the action is timely filed pursuant to 19 U.S.C. § 1516a(a)(2)(A).

7. This action is also being commenced by the concurrent filing of a summons and complaint within two years after the date of publication of the *Revocation Determination*. Thus, this action is also timely filed pursuant to 28 U.S.C. §§ 1581(i) and 2636(i).

PROCEEDINGS BELOW

8. On January 3, 2006, the Department published a notice of initiation of a five-year ("sunset") review of the antidumping duty order on silicon metal from Brazil. *Initiation of Five-Year ("Sunset") Reviews*, 71 Fed. Reg. 91 (January 3, 2006).

9. On January 3, 2006, the United States International Trade Commission (the "Commission") published a notice of institution of a five-year ("sunset") review of the antidumping duty order on silicon metal from Brazil. *Silicon Metal from Brazil and China: Institution of Five-Year Reviews Concerning the Antidumping Duty Orders on Silicon Metal from Brazil and China*, 71 Fed. Reg. 138 (January 3, 2006).

10. On February 2, 2006, Plaintiff filed a substantive response to the Department's notice of initiation.

11. On February 21, 2006, the Department announced its determination to conduct its review on an expedited basis.

12. On February 23, 2006, Plaintiff filed a substantive response to the Commission's notice of institution.

13. On April 25, 2006, the Commission published its determination to conduct a full review of the antidumping duty order on silicon metal from Brazil. *Silicon Metal from Brazil and China: Notice of Commission Determinations to Conduct Full Five-Year Reviews Concerning the Antidumping Duty Orders on Silicon Metal from Brazil and China*, 71 Fed. Reg. 23,947 (April 25, 2006).

14. On May 4, 2006, the Department published its determination that revocation of the antidumping duty order on silicon metal from Brazil would likely lead to continuation or recurrence of dumping. *Silicon Metal from the People's Republic of China and Brazil: Final*

Results of the Expedited Reviews of the Antidumping Duty Orders, 71 Fed. Reg. 26,334 (May 4, 2006).

15. Plaintiff participated in the Commission sunset review by submitting questionnaires, other responses to Commission questions, and briefs, and by testifying at the Commission's hearing.

16. On December 11, 2006, the Commission published its determination that revocation of the antidumping duty order on silicon metal from Brazil would not likely lead to continuation or recurrence of material injury within a reasonably foreseeable time. *Silicon Metal from Brazil and China: Determinations*, 71 Fed. Reg. 71,554 (December 11, 2006).

17. On December 21, 2006, as a result of the Commission's negative sunset review determination, the Department published the *Revocation Determination*.

STATEMENT OF CLAIMS

18. Plaintiff incorporates the allegations in paragraphs 1 through 17 as though fully set forth herein.

19. Section 751(d)(2) of the Act (19 U.S.C. § 1675(d)(2)) provides that the Department shall revoke an antidumping duty order unless the Department makes a determination that dumping would be likely to continue or recur and the Commission makes a determination that material injury would be likely to continue or recur.

20. Because the Commission determined that revocation of the antidumping duty order on silicon metal from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, the Department revoked the antidumping duty order on silicon metal from Brazil.

21. Plaintiff has filed an appeal with this Court (Court No. 07-00011) challenging the Commission's determination that revocation of the order would not be likely to lead to

continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

22. In that appeal, Plaintiff is seeking review and the correction of errors that, if corrected, Plaintiff believes will result in a finding of likely continuation or recurrence of material injury to an industry in the United States.

23. Accordingly, Plaintiff challenges the Department's revocation of the antidumping duty order on silicon metal from Brazil.

RELIEF REQUESTED

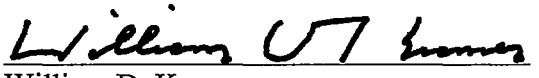
24. Wherefore Plaintiff respectfully requests that this Court:

a. determine that the required legal basis for revoking the antidumping duty order on silicon metal from Brazil does not exist;

b. order that the antidumping duty order on silicon metal from Brazil be reinstated or, in the alternative, that this case be remanded to the Department for further proceedings consistent with the judgment of this Court; and

c. provide such other relief as this Court deems appropriate, just and proper.

Respectfully submitted,



William D. Kramer
Martin Schaefermeier
James A. Earl
DLA Piper US LLP
1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2412
(202) 861-3900

Counsel for Globe Metallurgical Inc.

Dated: January 19, 2007

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing summons, complaint, and information statement were served on the following parties by certified mail, return receipt requested, on this 19th day of January, 2007:

Barbara Williams, Esq.
Attorney-In-Charge
International Trade Field Office
Commercial Litigation Branch
U.S. Department of Justice
26 Federal Plaza
New York, New York 10278

John J. Sullivan
General Counsel
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Martin Schaefermeier

RECEIVED & FILED
2007 JAN 19 P 1:15
U.S. DISTRICT COURT
DISTRICT OF MAINE

THIS PAPER IS DELIVERED
THE DATE OF MAILING-
1-19-07